



CA 73-191

1983 (Jail)
J. P. R. 20/10/6-88

APPEAL OF PRISONER

No. 2216 GROUNDS OF APPEAL
 Father's name सुरव सागर
 Residence धनगड सतनामी समीप निवासी - कोठमीसोनार, थाना
 Age 36 वर्ष (पुरुष)
 Sentenced आजन्म कारावास on 11.7.1990
 Under section 302, 324 भा.पू.व.सं. by माननीय जज आरिफ सत्र न्यायाधीश जिला सपुर
सं. 98 कठ 273/88

it is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the case for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not be heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

- 1 Date of Application for copy of Judgement 11.7.1990.
- 2 Date of which copy received 9-12-90 सुप्रीम कोर्ट by the Prisoner
- 3 Date on which Appeal sent 21-12-90
- 4 whether the prisoner wishes to be represented or not - Yes / No .

No. 2216 Name सुरव सागर
 Continued in केन्द्रीय Jail शयपुर (म.उ.)
 No. 1229/00 Oct 90 Dated 21.12.90 198

Forward to the माननीय आतिथिक पंजीयन महोदय
म.उ. उच्च न्यायालय जिला सपुर
 to get which a copy of order passed in the case for favour of transmission to the proper Appellate Court.

Superintendent

Date of receipt in C. J. M.'s office
 Date of receipt record to accompany
 Memo of Appeal of the Appellate court

No. _____ Dated _____ 198

Forwarded to the

Superintendent

Date of receipt in Appellate Court

C. J. Magistrate

Dated

60 (P. T. O.)

HIGH COURT OF CHHATTISGARH : BILASPUR

CRIMINAL APPEAL NO.73 OF 1991

Sukh Sagar

Vs.

State of C.G.

J U D G M E N T

HIGH COURT OF CHHATTISGARH : BILASPUR**CRIMINAL APPEAL NO.73 OF 1991**

Sukh Sagar

Vs.

State of Chhattisgarh

**CORAM : HON'BLE SHRI FAKHRUDDIN, J &
HON'BLE SHIR V.K. SHRIVASTAVA, J**

Smt. Kiran Jain, Advocate, appears as amicus curiae on behalf of the appellant.

Shri Akhil Mishra & Shri Ravindra Agrawal, Panel Lawyers for the State.

J U D G M E N T**Per Fakhruddin, J:**

Heard learned counsel for the parties.

2. The appellant has been convicted for an offence punishable under Section 302 of the Indian Penal Code and sentenced to undergo imprisonment for life and under Section 324 of Indian Penal Code and sentenced to R.I. for six months vide judgment dated 11th July, 1990 by the Third Additional Sessions Judge, Bilaspur in Sessions Trial No.273/88.

3. Briefly stated the facts are that the daughter of Dukalha Satnami (P.W.1), namely, Sukhbai was married to Bhagchand who was the elder brother of the accused appellant Sukhsagar, but the gauna had not taken place. Bhagchand died and as per the custom (chudi ceremony) her marriage was performed with the accused appellant. Thereafter, gauna had taken place and she started living with the accused appellant. Out of the wedlock,

three children i.e. two sons and one daughter were born. It is not disputed that two years before Sukhbai came from her in-laws house and started living in the house of her father in village Aankdih. The accused also started living with her.

4. The prosecution alleges that about ten years before, the accused had gone to Allahabad in search of the job. Sukhbai had also gone with him. During their stay at Allahabad, the accused got suspicion that she had illicit relations with the other persons. Therefore, he returned back alongwith his wife to his house and started living in village Kotmisunar, where he started torturing and beating her, as a result of which she came back to her father's house and started living in village Aankdih. The prosecution further alleges that the accused Sukhsagar came to his father-in-law's house and apologized. One week before 8/8/1988, the quarrel had taken place between Sukhbai and Sukhsagar, the report of which was lodged in Masturi police station. Sukhsagar was detained under Section 151 Cr.P.C. and proceedings under Section 107/116 Cr.P.C. were started against the accused. He was released on bail and started living in village Kotmisunar. On 8/8/1988 in the night while hiding he came to the village Aankdih and hid himself behind the house of Dukalha Satnami. At about 5.30 in the morning, when Sukhbai opened the door, the accused entered in the house and assaulted on her with knife. After hearing the cry, when Dukalha came on the spot and tried to save her daughter, he was also assaulted, as

a result thereof he sustained injuries. On a cry being raised by Dukalha, other persons came on the spot. Sukhsagar fled away from the spot but he was however caught by the village persons. He admitted before the village persons that he has killed his wife. It is also said that while he was running, he fell down and received the injuries. Dukalha Satnami (P.W.1) lodged the report at 7.30 in the morning in police station, Masturi, which was recorded by A.S.I. Shri R.K. Tiwari (P.W.9). The Investigating Officer came on the spot, prepared the panchnama of the dead body and effected the seizure. The dead body was sent for post mortem. Dr. J.L. Shrivastava (P.W.4) conducted the post mortem. The accused was arrested on 8/8/1988 and on his memorandum knife was recovered and seized. The weapon was sent for the F.S.L. Spot map was prepared by the Patwari (P.W.6). Since the appellant had received the injuries on his legs, he was sent for treatment at District Hospital, Bilaspur where he remained admitted and after discharge he was arrested on 1/9/1988. He was charged for the offences punishable under Section 302 IPC for killing his wife and under Section 324 IPC for causing injury to P.W.1 Dukalha.

5. The accused abjured the guilt and contended that he was falsely implicated. His plea was that while he was coming to the village, near nala the village persons bet him. He further stated that he was living in the village and his father-in-law called him to give some land. It is stated that he was not given the land and on the pretext he was falsely implicated.

6. Learned trial court after considering the evidence and relying the material on record, recorded a finding and found the appellant guilty for the offences punishable under Section 302 IPC for killing his wife and under Section 324 IPC for causing injury to P.W.1 Dukalha.

7. Learned amicus curiae appearing for the appellant contended that the evidence of P.W.1 Dukalha is not reliable. She further contended that there was no motive. She also contended that the FSL report has not been produced.

8. Rebutting the aforesaid contentions and while supporting the judgment, learned counsel appearing for the State contended that P.W.1 Dukalha is an injured witness and his evidence is natural and cannot be discarded merely because he happens to be the father of the deceased.

9. We have heard learned counsel for the parties and gone through the record minutely.

10. In this case, it is P.W.1 Dukalha who has lodged the first information report (Ex.P/1) at 7.30 in the morning on 8/8/1988. He himself is injured and sustained knife injuries (Ex.P/9). The injuries sustained by the deceased have been described in the document Ex.P/11, wherefrom it is clear that she has sustained 10 incised wounds on all over the body. P.W.4 Dr. J.L. Shrivastava has given the opinion that the cause of death is shock and haemorrhage due to stab injury by sharp object to the liver

and right lungs and large vessels at root of right lungs. The duration between the death and doing in post mortem is within 24 hours.

11. P.W.1 Dukalha in para 3 of his statement has stated that early in the morning at about 6'o clock the accused inflicted knife blows on the chest and other parts of the body of his daughter Sukhbai and when she cried, he rushed and saw there from his own eyes that the accused had inflicted the injury to his daughter Sukhbai who fell down on the earth. Even the accused inflicted the injury on his back side of neck and chest. He cried and P.W.2 Dukharam came on the spot. In spite of there being cross-examination, there is nothing to demolish his testimony. His evidence is corroborated by Dukharam, who stated that on a cry being raised, he went there and found that Sukhsagar was inflicting the injury to Sukhbai. The evidence of other witnesses is also there which corroborates that of P.W.1.

12. We alongwith the counsel for both the parties have also gone through the evidence and the material on record. We find that the trial court has relied upon them. They are trustworthy and there is nothing against. The accused was caught in the village, while he was running from the spot. We find that the prosecution has proved that he is the author of the injuries on the person of the deceased and P.W.1 Dukalha.

13. So far as the question raised about motive is concerned, the eye witness account is there. The motive is also there that the

accused had the grudge against his wife and father-in-law, which is apparent from Sanha Ex.P/20 & P/21, which were recorded on the report of Sukhbai and the accused was detained under Section 151 Cr.P.C. and the proceedings were initiated under Section 107/116 Cr.P.C.

14. So far as the production of F.S.L. report is concerned, in presence of eye witness account, that is not material.

15. Having thus considered, we are of the opinion that the conviction of the appellant by the trial court under Section 302 IPC and 324 IPC is well established. There is no merit in the appeal and the same fails and is accordingly dismissed.

16. Before parting, we appreciate the valuable assistance rendered by the counsel for the parties.

Sd/-
Fakhruddin
Judge

13 /7/2005

Sd/-
V.K. Shrivatava
Judge

13/7/2005

Hande/-